

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

R.H. Donnelly, Inc., d/b/a Dex One	)	
as agent for Illinois Bell Telephone Company	)	
	)	Docket No. 11-0668
Petition for Variance from Section 735.180	)	
of the Illinois Administrative Code	)	

STAFF OF THE ILLINOIS COMMERCE COMMISSION'S  
REQUEST FOR INVESTIGATION

NOW COMES the Staff of the Illinois Commerce Commission, by and through its undersigned attorney, and, pursuant to Section 13-513 of the Public Utilities Act, 220 ILCS 5/13-513, requests that the Commission convene an investigation of R.H. Donnelly, Inc., d/b/a Dex One's Request for Variance, and in support thereof, states as follows:

1. On September 30, 2011, R.H. Donnelly, Inc., d/b/a Dex One (Dex One), filed its Petition for Variance from Section 735.180 of the Illinois Administrative Code. *See, generally, Petition.*

2. Dex One requests, in summary, that it be granted a waiver of the requirement imposed by 83 Ill. Adm. Code 735.180, that it deliver residential telephone directories to all customers within the City of Chicago. Petition, ¶4. Dex One further requests that it be granted a waiver of the requirement imposed by 83 Ill. Adm. Code 735.180, that it deliver residential telephone directories to all customers in certain markets outside the City of Chicago. Id.

3. Section 13-513 of the Public Utilities Act provides that:

A telecommunications carrier may petition for waiver of the application of a rule issued pursuant to this Act. The burden of proof in establishing the right to a waiver shall be upon the petitioner. The petition shall include a

demonstration that the waiver would not harm consumers and would not impede the development or operation of a competitive market. Upon such demonstration, the Commission may waive the application of a rule, but not the application of a provision of this Act. The Commission may conduct an investigation of the petition on its own motion or at the request of a potentially affected person. If no investigation is conducted, the waiver shall be deemed granted 30 days after the petition is filed.

220 ILCS 5/13-513

4. Section 735.50 of the Commission's Rules provides that:

The Commission, on application of a company, customer, applicant, or user or on its own motion, may grant a temporary or permanent variance from this Part in individual cases where the Commission finds that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

83 Ill. Adm. Code 735.50

5. Section 735.50 is: "a rule issued pursuant to [the Public Utilities] Act" within the meaning of Section 13-513.

6. The Staff, having reviewed the Petition and supporting testimony, believes that an investigation should be convened to determine whether the requested waiver or variance will harm consumers, or injure any party, and also whether compliance by Dex One with Section 735.180 would, in this particular case, be unreasonable or unnecessarily burdensome.

7. Accordingly, the Staff requests that the Commission convene such an investigation.

WHEREFORE, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth herein.

Respectfully submitted,

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October 13, 2011

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